THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22300 of 1994

Dated:18.1.2007

Between

1.The District Manager, A.P.
State Housing Corporation Ltd.,
Kadapa and another.

.....Petitioner

and

1.Pannapaka Savitri and another.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22300 of 1994

ORDER:

This writ petition is filed challenging the Award on the file of the Industrial Tribunal cum Labour Court, Anantapur passed in I.D.No.28 of 1992 dated 16.8.1994.

The writ petitioner is the Corporation and the 1st respondent is the workman. It appears that the 1st respondent worked for a period of 7 years with the petitioner's Corporation without any remarks and blemish. Thereafter, the petitioner-Corporation without following any procedure known to law terminated the services of the petitioner on 1.10.1991. When she was not permitted to work, she raised a dispute under Section 2-A (2) of Industrial Disputes Act (for short 'the Act') before the Industrial Tribunal cum Labour Court,

Anantapur, and the same was answered in her favour. Aggrieved by the same, the petitioner-Corporation filed this writ petition.

The petitioner-Corporation filed a detailed counter-affidavit before the Labour Court contending that the 1st respondent does not come under the definition of workman and the petitioner also does not come under the definition of industry. Hence, the Industrial Dispute cannot be entertained. It is their case that the 1st respondent-workman worked as casual labour in their Corporation on daily wages. Her wages were paid on the basis of her work done for the total period in a particular month. She was not on muster rolls nor she was employed by the petitioner on monthly basis. The petitioner Corporation is a under the Quasi-governmental pauthority. The recruitment can be only through Employment Exchange but not otherwise. The 1st respondent was not employed nor any orders were given appointing her as Sweeper. She does not deserve any right to claim that she was employed as Sweeper. The petitioner-

Corporation employed a night watchman on daily wages and the said person also attends to sweeping of the Corporation building. The 1st respondent was never diligent in attending to her work and used to skip her duty often forcing the petitioner-Corporation to seek alternative appointment. Inspite of her vagaries in working, she was paid her wages mainly on gender sympathy. The earlier officers were lenient towards her and gave latitude in spite of her escaping from duty. The 1st respondent taking advantage of sympathy has been misusing the same. The petitioner-Corporation never removed her from service with effect from 10-10-1991 as alleged. There was no oral termination as contended. The 1st respondent herself abstained from duty since 1.10.1991 and abandoned her casual service seeking gainful employment elsewhere. There is no violation of Section 25 F of the Act. The Corporation is prepared to take her into service as Sweeper but not prepared to pay her back wages

from 1.10.1991.

On behalf of the 1st respondent-workman, she herself was examined as WW1 and Exs.W1 and W2 were marked. On behalf of the petitioner-Corporation one R.Seenaiah was examined, but no documents were marked.

After a detailed consideration of both oral and documentary evidence placed before it, the Labour Court came to the conclusion that the petitioner worked for more than 7 years continuously and thereafter her services were terminated illegally without following the provisions of Section 25 F of the ID Act. Further, it was noticed in the evidence of MW1 that if the 1st respondent-workman is prepared to join services, they are ready to take her back without backwages. In the cross examination he has stated that he has no personal knowledge about the facts of the case. But, he admitted that during 1991, the petitioner was drawing consolidated pay of RS.200/- per month. He also admitted that earlier she has drawn Rs.30/- per month and then 70/- per month and later 200/-

P.M. MW1 further deposed that the nature of work of the petitioner was permanent in nature. Therefore, the Labour Court has come to the conclusion that the petitioner-Corporation has not followed the mandatory provisions of Section 25 F of the Act and directed the Corporation to reinstate the petitioner into service with continuity of service and back wages.

Learned counsel for the petitioner-Corporation strenuously contended that she is not a regular employee and she was not employed through employment exchange nor any appointment was given to her. Therefore, it cannot be said that she had continuously worked for more than 240 days before her termination and the provisions of Section 25-F of the Act are not violated.

I am of the opinion that the Labour Court has considered all these aspects meticulously and came to the right conclusion that the mandatory provisions of Section 25 F of the Act are not followed and rightly held that the termination of the petitioner was illegal, invalid and contrary to law.

Hence, no case is made out to interfere with the order passed by the Labour Court under Article 226 of the Constitution of India. The writ petition is devoid of merit and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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18-01-2007

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